

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. No new matter has been added.

35 U.S.C. § 103

Claims 1-11, 17-41 and 49-52 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. (U.S. Patent No. 5,819,226) in view of Fischthal (U.S. Patent No. 5,822,741) and Downs, Sean, "Technology, education aid medical fraud fighting." Claims 12-16 and 45-48 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Fischthal, Downs, and Prezioso (U.S. Patent No. 5,724,488). Claims 53-64 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Fischthal, Downs, and Werstein Hann, Leslie "High Tech Sleuths". These rejections are respectfully traversed.

M.P.E.P. 715.01(c) II Recites: "When the unclaimed subject matter of a patent, application publication, or other publication is applicant's own invention, a rejection, which is not a statutory bar, on that patent or publication may be removed by submission of evidence establishing the fact that the patentee, applicant of the published application, or author derived his or her knowledge of the relevant subject matter from applicant. Moreover applicant must further show that he or she made the invention upon which the relevant disclosure in the patent, application publication, or other publication is based. *In re Mathews*, 408 F.2d 1393, 161 USPQ 276 (CCPA 1969); *In re Facius*, 408 F.2d 1396, 161 USPQ 294 (CCPA 1969)".

Each of the claims stands rejected as allegedly being obvious in light of one or more references in combination with Downs. A Declaration under § 1.132 executed by inventor Sean

Downs (author of the "Downs reference" is being concurrently submitted (the "Declaration") to demonstrate that the Reference was derived from the subject matter described in the Application as provided by M.P.E.P. 715.01(c) II.

According to the Declaration, the Downs reference correctly identified Mr. Downs as President of HNC Insurance Solutions (which is listed as the Workers Compensation Business Unit of HNC Software, Inc). Mr. Down states that his co-inventors were all commonly employed by HNC Software, Inc. when the subject matter described in the Application was first invented. Mr. Downs also states that the subject matter described in the Downs reference was derived from the research and development efforts which the inventors of the current application intended to protect in the currently application. Stated differently, Mr. Downs believes that he derived his knowledge of the subject matter in the Downs reference from his efforts and the efforts of his co-inventors which are all described and claimed in the current application.

Based on the foregoing, it is respectfully submitted that the Downs reference, which was published less than one year before the filing date of the current application, is not prior art and that the rejections under 35 USC § 103 based, in part, on the Downs reference should be withdrawn.

Accordingly, the claims should be allowable.

Concluding Comments

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Applicant asks that all claims be allowed.

If there are any questions regarding these remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 35006-577F01US.

Respectfully submitted,

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